

109TH CONGRESS  
2D SESSION

# S. 3817

To amend the Internal Revenue Code of 1986 to provide a tax credit for certain entities making matching contributions to retirement plans.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2006

Mr. TALENT introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit for certain entities making matching contributions to retirement plans.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Match Act of 2006”.

5       **SEC. 2. TAX CREDIT FOR MATCHING FUNDS FOR RETIRE-**  
6       **MENT PLANS.**

7       (a) ALLOWANCE OF CREDIT.—

8               (1) IN GENERAL.—Subpart D of part IV of  
9       subchapter A of chapter 1 of the Internal Revenue  
10      Code of 1986 (relating to business related credits) is

1       amended by adding at the end the following new sec-  
 2       tion:

3       **“SEC. 45N. RETIREMENT PLAN INVESTMENT CREDIT.**

4       “(a) DETERMINATION OF AMOUNT.—For purposes of  
 5       section 38, the retirement plan investment credit deter-  
 6       mined under this section with respect to any eligible entity  
 7       for any taxable year is an amount equal to the retirement  
 8       investment provided by such eligible entity during the tax-  
 9       able year.

10       “(b) RETIREMENT INVESTMENT.—For purposes of  
 11       this section, the term ‘retirement investment’ means, with  
 12       respect to any taxable year, an amount equal to the sum  
 13       of—

14               “(1) the aggregate amount of qualified savings  
 15       matches made by the eligible entity under an eligible  
 16       retirement matching program during the taxable  
 17       year, plus

18               “(2) \$20 with respect to each new participating  
 19       individual of the entity for the taxable year.

20       “(c) ELIGIBLE RETIREMENT MATCHING PRO-  
 21       GRAM.—For purposes of this section—

22               “(1) IN GENERAL.—The term ‘eligible retire-  
 23       ment matching program’ means a program of an eli-  
 24       gible entity—

1 “(A) under which such entity provides a  
2 qualified savings match for the first \$2,000 of  
3 qualified retirement savings contributions made  
4 during the taxable year of an eligible individual  
5 to a participating retirement plan, and

6 “(B) which is approved by the Secretary as  
7 meeting the requirements of paragraph (2).

8 “(2) PROGRAM REQUIREMENTS.—A program  
9 shall not be an eligible retirement matching program  
10 unless the program meets the following require-  
11 ments:

12 “(A) The program requires that a deposit  
13 of any qualified savings match shall be made  
14 not later than 90 days after receipt of the  
15 qualified retirement savings contribution.

16 “(B) The program requires that qualified  
17 savings matches shall be provided on a uniform  
18 basis to eligible individuals.

19 “(C) The program requires that the eligi-  
20 ble entity shall not provide a qualified savings  
21 match to an individual unless the eligible enti-  
22 ty—

23 “(i) has no knowledge or reason to be-  
24 lieve the individual is not an eligible indi-  
25 vidual, and

1                   “(ii) exercises reasonable due diligence  
2                   in determining whether an individual is an  
3                   eligible individual for the taxable year in  
4                   which the individual makes the qualified  
5                   retirement savings contribution.

6                   “(D) The program requires that any quali-  
7                   fied retirement savings contribution, and any  
8                   qualified savings match attributable to such  
9                   contribution, may not be distributed before the  
10                  first day of the calendar year following the cal-  
11                  endar year in which such contribution was  
12                  made.

13                  “(E) The program includes such proce-  
14                  dures as required by the Secretary in order to  
15                  ensure that the program operates pursuant to  
16                  the requirements of this section.

17                  “(F) The program meets such other re-  
18                  quirements as the Secretary may require.

19                  “(3) PROOF OF STATUS AS AN ELIGIBLE INDIV-  
20                  IDUAL.—In any taxable year in which contributions  
21                  or deferrals are made with respect to a participating  
22                  retirement plan by an individual, an eligible entity—

23                         “(A) may require such individual—

24                                 “(i) to certify that—

1 “(I) such individual understands  
2 the rules and requirements of the pro-  
3 gram, and

4 “(II) such individual is an eligi-  
5 ble individual, or

6 “(ii) to provide the eligible entity with  
7 the income eligibility certificate provided to  
8 such individual under section 7529, and

9 “(B) may request that such individual dis-  
10 close the individual’s Federal income tax return  
11 for the immediately preceding taxable year or to  
12 grant the eligible entity access to such return.

13 “(d) NEW PARTICIPATING INDIVIDUAL.—For pur-  
14 poses of this section, the term ‘new participating indi-  
15 vidual’ means an eligible individual who—

16 “(1) makes a qualified retirement savings con-  
17 tribution during the taxable year of the eligible enti-  
18 ty to a participating retirement plan, and

19 “(2) has not made a qualified retirement sav-  
20 ings contribution to any eligible retirement plan  
21 maintained by the eligible entity in any preceding  
22 taxable year of the eligible entity.

23 “(e) OTHER DEFINITIONS.—For purposes of this  
24 section—

25 “(1) ELIGIBLE ENTITY.—

“(A) IN GENERAL.—The term ‘eligible entity’ means, with respect to any eligible retirement matching program, any person which—

“(i) has a relationship described in subparagraph (B) to the participating retirement plan under the program, and

“(ii) is designated as the eligible entity under the program.

“(B) RELATIONSHIP DESCRIBED.—A person has a relationship described in this subparagraph to a participating retirement plan if such person is—

“(i) the employer maintaining the plan,

“(ii) the plan administrator,

“(iii) the trustee of the plan, or

“(iv) any other person specified under regulations prescribed by the Secretary.

“(2) ELIGIBLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘eligible individual’ means, with respect to any taxable year, an individual who—

“(i) has attained the age of 18 as of the last day of such taxable year,

1 “(ii) was not a student (as defined in  
 2 section 151(c)(4)) for the immediately pre-  
 3 ceding taxable year,

4 “(iii) is not an individual with respect  
 5 to whom a deduction under section 151 is  
 6 allowable to another taxpayer for a taxable  
 7 year of the other taxpayer ending during  
 8 the immediately preceding taxable year of  
 9 the individual, and

10 “(iv) is a taxpayer the modified ad-  
 11 justed gross income of whom for the imme-  
 12 diately preceding taxable year does not ex-  
 13 ceed—

14 “(I) \$50,000, in the case of a  
 15 taxpayer described in section 1(a),

16 “(II) \$37,500, in the case of a  
 17 taxpayer described in section 1(b),  
 18 and

19 “(III) \$25,000, in the case of  
 20 any other taxpayer.

21 “(B) MODIFIED ADJUSTED GROSS IN-  
 22 COME.—For purposes of subparagraph (A)(iv),  
 23 the term ‘modified adjusted gross income’  
 24 means adjusted gross income determined with-  
 25 out regard to sections 911, 931, and 933.

“(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2008, each of the dollar amounts in subparagraph (A)(iv) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2007’ for ‘calendar year 1992’ in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of \$500.

“(3) QUALIFIED SAVINGS MATCH.—The term ‘qualified savings match’ means a contribution by an eligible entity on behalf of an eligible individual to a participating retirement plan in an amount equal to 50 percent of the qualified retirement savings contribution made by such eligible individual during the taxable year.

“(4) QUALIFIED RETIREMENT SAVINGS CONTRIBUTIONS.—



1           “(A) IN GENERAL.—The term ‘qualified  
2 retirement savings contributions’ means, with  
3 respect to any taxable year of an eligible indi-  
4 vidual—

5           “(i) the amount of contributions made  
6 by such eligible individual to a partici-  
7 pating retirement plan for such individual’s  
8 benefit, or

9           “(ii) the amount of elective deferrals  
10 made by or on behalf of such eligible indi-  
11 vidual under a participating retirement  
12 plan.

13           “(B) REDUCTION FOR CERTAIN DISTRIBUTIONS.—  
14

15           “(i) IN GENERAL.—The qualified re-  
16 tirement savings contributions determined  
17 under subparagraph (A) shall be reduced  
18 (but not below zero) by the aggregate dis-  
19 tributions received by the individual during  
20 the testing period from all eligible retire-  
21 ment plans of such individual. The pre-  
22 ceding sentence shall not apply to the por-  
23 tion of any distribution which is not in-  
24 cludible in gross income by reason of a

1 trustee-to-trustee transfer or a rollover dis-  
 2 tribution.

3 “(ii) TESTING PERIOD.—For purposes  
 4 of clause (i), the testing period, with re-  
 5 spect to a taxable year, is the period which  
 6 includes such taxable year and the 2 pre-  
 7 ceding taxable years.

8 “(iii) EXCEPTED DISTRIBUTIONS.—  
 9 There shall not be taken into account  
 10 under clause (i)—

11 “(I) any distribution referred to  
 12 in section 72(p), 401(k)(8),  
 13 401(m)(6), 402(g)(2), 404(k), or  
 14 408(d)(4),

15 “(II) any distribution to which  
 16 section 408A(d)(3) applies, and

17 “(III) any distribution to which  
 18 subsection (f) applies.

19 “(iv) TREATMENT OF DISTRIBUTIONS  
 20 RECEIVED BY SPOUSE OF INDIVIDUAL.—  
 21 For purposes of determining distributions  
 22 received by an individual under clause (i)  
 23 for any taxable year, any distribution re-  
 24 ceived by the spouse of such individual  
 25 shall be treated as received by such indi-

1                   vidual if such individual and spouse file a  
 2                   joint return for such taxable year and for  
 3                   the taxable year during which the spouse  
 4                   receives the distribution.

5                   “(5) PARTICIPATING RETIREMENT PLAN.—The  
 6                   term ‘participating retirement plan’ means any eligi-  
 7                   ble retirement plan which is part of an eligible re-  
 8                   tirement matching program.

9                   “(6) ELIGIBLE RETIREMENT PLAN.—The term  
 10                  ‘eligible retirement plan’ has the meaning given such  
 11                  term under section 402(c)(8)(B).

12                  “(f) TREATMENT OF DISQUALIFIED SAVINGS  
 13 MATCHES.—

14                  “(1) IN GENERAL.—If any individual receives a  
 15                  disqualified savings match in any taxable year,  
 16                  then—

17                         “(A) an amount equal to such disqualified  
 18                         savings match plus any earnings attributable to  
 19                         such disqualified savings match shall be distrib-  
 20                         uted to such individual, and

21                         “(B) the tax imposed under this chapter  
 22                         for such taxable year on such eligible individual  
 23                         shall be increased by an amount equal to 100  
 24                         percent of such disqualified savings match.

25                  “(2) TREATMENT OF DISTRIBUTION.—

1           “(A) INCOME.—Notwithstanding section  
2           72(x)—

3           “(i) any disqualified savings match for  
4           any taxable year shall not be included in  
5           the gross income of the individual for the  
6           taxable year, and

7           “(ii) the amount of any distribution  
8           made pursuant to paragraph (1)(A) shall  
9           not be included in gross income for the  
10          taxable year.

11          “(B) PENALTIES.—Section 72(t) shall not  
12          apply to any distribution made pursuant to  
13          paragraph (1)(A).

14          “(C) EFFECT ON PLANS.—A plan shall not  
15          be treated as failing to meet the requirements  
16          of section 401(k)(2)(B), 403(b)(7)(A)(ii), or  
17          403(b)(11) by reason of any distribution made  
18          pursuant to paragraph (1)(A).

19          “(3) DISQUALIFIED SAVINGS MATCH.—For pur-  
20          poses of this subsection, the term ‘disqualified sav-  
21          ings match’ means, with respect to any taxable year  
22          of an individual—

23               “(A) in the case of an individual who is  
24               not an eligible individual for such taxable year,  
25               any payment under an eligible retirement

1 matching program for which an eligible entity  
 2 claims a credit under subsection (a), and

3 “(B) in the case of an individual who is an  
 4 eligible individual for such taxable year, the  
 5 amount of aggregate qualified savings matches  
 6 received under one or more participating retire-  
 7 ment plans which is in excess of \$1,000.

8 “(g) SPECIAL RULES.—

9 “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-  
 10 tion or credit (other than under this section) shall  
 11 be allowed under this chapter with respect to any ex-  
 12 pense which is taken into account under subsection  
 13 (a) in determining the credit under this section.

14 “(2) COORDINATION WITH PENSION PLAN  
 15 RULES.—

16 “(A) IN GENERAL.—Any qualified savings  
 17 match which is made by an eligible entity under  
 18 an eligible retirement matching program—

19 “(i) shall not be treated as a matching  
 20 contribution of the entity for purposes of  
 21 this title, and

22 “(ii) shall not be subject to any other-  
 23 wise applicable limitation contained in sec-  
 24 tion 402(g), 402(h), 403(b), 404(a),  
 25 404(h), 408, 415, or 457, and shall not be

1 taken into account in applying such limita-  
2 tions to other contributions or benefits  
3 under such plan or any other plan, with re-  
4 spect to the year in which the contribution  
5 is made.

6 “(B) EFFECT ON PLANS.—A plan shall not  
7 be treated as failing to meet the requirements  
8 of section 401(a)(4), 401(a)(26), 401(k)(3),  
9 401(k)(11), 401(k)(12), 401(m), 403(b)(12),  
10 408(k)(3), 408(k)(6), 408(p), 410(b), or 416 by  
11 reason of any qualified savings match made by  
12 an eligible entity under an eligible retirement  
13 matching program.

14 “(h) CREDIT MAY BE TRANSFERRED.—

15 “(1) IN GENERAL.—An eligible entity may  
16 transfer any credit allowable to the eligible entity  
17 under subsection (a) to any person other than to an-  
18 other eligible entity which is exempt from tax under  
19 this title. The determination as to whether a credit  
20 is allowable shall be made without regard to the tax-  
21 exempt status of the eligible entity.

22 “(2) CONSENT REQUIRED FOR REVOCATION.—

23 Any transfer under paragraph (1) may be revoked  
24 only with the consent of the Secretary.

1           “(3) REGULATIONS.—The Secretary may pre-  
 2       scribe such regulations as necessary to ensure that  
 3       any credit described in paragraph (1) is claimed  
 4       once and not retransferred by a transferee.

5       “(i) REPORTS.—

6           “(1) IN GENERAL.—Each eligible entity shall  
 7       make such reports to the Secretary and to eligible  
 8       individuals regarding—

9           “(A) qualified savings matches provided  
 10       under an eligible retirement matching program,

11          “(B) distributions from any participating  
 12       retirement plan account aggregating \$10 or  
 13       more during any calendar year, and

14          “(C) such other information as the Sec-  
 15       retary may require.

16       “(2) TIME FOR MAKING REPORTS.—The reports  
 17       required by this subsection—

18          “(A) shall be filed at such time and in  
 19       such manner as the Secretary prescribes, and

20          “(B) shall be furnished to eligible individ-  
 21       uals—

22               “(i) not later than January 31 of the  
 23       calendar year following the calendar year  
 24       to which such reports relate, and

1 “(ii) in such manner as the Secretary  
2 prescribes.

3 “(j) REGULATIONS.—The Secretary may prescribe  
4 such regulations as may be necessary or appropriate to  
5 carry out this section.”.

6 (2) CREDIT TREATED AS BUSINESS CREDIT.—

7 Section 38(b) of such Code (relating to current year  
8 business credit) is amended by striking “and” at the  
9 end of paragraph (29), by striking the period at the  
10 end of paragraph (30) and inserting “, plus”, and  
11 by adding at the end the following new paragraph:

12 “(31) the retirement plan investment credit de-  
13 termined under section 45N(a).”.

14 (b) TREATMENT OF MATCHING CONTRIBUTIONS.—

15 Section 72 of the Internal Revenue Code of 1986 is  
16 amended by redesignating subsection (x) as subsection (y)  
17 and by inserting after subsection (w) the following new  
18 subsection:

19 “(x) TREATMENT OF ELIGIBLE RETIREMENT  
20 MATCHING PROGRAM CONTRIBUTIONS.—

21 “(1) IN GENERAL.—If an eligible entity pro-  
22 vides a qualified savings match to an eligible retire-  
23 ment plan under an eligible retirement matching  
24 program, then the amount of such match—



3 “(B) shall be added to the investment on  
4 the contract.

“(2) DEFINITIONS.—Any term used in this sub-  
section which is also used in section 45N shall have  
the meaning given such term by section 45N.”.

8 (c) CERTIFICATES OF ELIGIBILITY.—Chapter 77 of  
9 the Internal Revenue Code of 1986 is amended by adding  
10 at the end the following new section:

11   **“SEC. 7529. CERTIFICATE OF INCOME ELIGIBILITY FOR ELI-**  
12                   **GIBLE RETIREMENT MATCHING PROGRAMS.**

13       “(a) IN GENERAL.—The Secretary shall establish a  
14   program for providing income eligibility certificates to tax-  
15   payers who meet the requirements of clauses (iii) and (iv)  
16   of section 45N(e)(2)(A).

17       “(b) PROVISION OF CERTIFICATE THROUGH MAIL.—  
18 As soon as practicable after receiving a taxpayer’s return  
19 for a taxable year, the Secretary shall mail such certificate  
20 to the taxpayer.”.

(d) PENALTY ON ELIGIBLE ENTITIES FOR MATCH-  
ING CONTRIBUTIONS TO INELIGIBLE INDIVIDUALS.—Part  
I of subchapter B of chapter 68 of the Internal Revenue  
Code of 1986 is amended by adding at the end the fol-  
lowing new section:

1   **“SEC. 6720B. PAYMENT OF QUALIFIED MATCHING CON-**  
2                   **TRIBUTIONS TO INELIGIBLE INDIVIDUALS.**

3           “(a) IN GENERAL.—If an eligible entity provides in-  
4 eligible savings matches under an eligible retirement pro-  
5 gram to 10 percent or more of the individuals partici-  
6 pating in such program during the taxable year, then such  
7 eligible entity shall pay a penalty in an amount equal to  
8 25 percent of the credit allowed to such entity under sec-  
9 tion 45N for such taxable year.

10          “(b) PENALTY IN CASE OF INTENTIONAL DIS-  
11 REGARD.—If an eligible entity provides an ineligible sav-  
12 ings match to an individual in any taxable year due to  
13 intentional disregard of whether such individual is an eligi-  
14 ble individual, such eligible entity shall pay a penalty in  
15 an amount equal to 100 percent of the credit allowed to  
16 such entity under section 45N for such taxable year.

17          “(c) DEFINITIONS.—For purposes of this section—

18               “(1) INELIGIBLE SAVINGS MATCH.—The term  
19 ‘ineligible savings match’ means a qualified savings  
20 match which is paid to an individual who is not an  
21 eligible individual for the taxable year in which the  
22 qualified savings match is paid.

23               “(2) OTHER DEFINITIONS.—Any term used in  
24 this section which is also used in section 45N shall  
25 have the meaning given such term by section 45N.”.

1 (e) COORDINATION WITH SAVERS' CREDIT.—Section  
 2 25B(c) of the Internal Revenue Code of 1986 is amended  
 3 by adding at the end the following new paragraph:

4 “(3) PARTICIPATION IN ELIGIBLE RETIREMENT  
 5 MATCHING PROGRAMS.—The term ‘eligible indi-  
 6 vidual’ shall not include any individual who receives  
 7 a qualified savings match under an eligible retire-  
 8 ment matching program under section 45N during  
 9 the taxable year.”.

10 (f) ACCOUNT FUNDS DISREGARDED FOR PURPOSES  
 11 OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.—

12 (1) EARNED INCOME CREDIT.—Subparagraph  
 13 (B) of section 32(c)(2) of the Internal Revenue Code  
 14 of 1986 is amended by striking “and” at the end of  
 15 clause (v), by striking the period at the end of clause  
 16 (vi) and inserting “, and”, and by adding at the end  
 17 the following new clause:

18 “(vii) no qualified savings match (as  
 19 defined in section 45N(e)(3)), including  
 20 earnings thereon, paid as part of an eligi-  
 21 ble retirement matching program (as de-  
 22 fined in section 45N(c)) shall be taken into  
 23 account.”.

24 (2) OTHER PROGRAMS.—Notwithstanding any  
 25 other provision of Federal law that requires consid-

1       eration of 1 or more financial circumstances of an  
 2       individual, for the purpose of determining eligibility  
 3       to receive, or the amount of, any assistance or ben-  
 4       efit authorized by such provision to be provided to  
 5       or for the benefit of such individual, the amount of  
 6       any qualified savings match (within the meaning of  
 7       section 45N(e)(3) of the Internal Revenue Code of  
 8       1986, as added by this Act), including earnings  
 9       thereon, paid to such individual under an eligible re-  
 10      tirement matching program (as defined in section  
 11      45N(c) of such Code) shall be disregarded for such  
 12      purpose.

13      (g) CLERICAL AMENDMENTS.—

14           (1) The table of sections for subpart C of part  
 15      IV of subchapter A of chapter 1 of the Internal Rev-  
 16      enue Code of 1986 is amended by adding at the end  
 17      the following new item:

“Sec. 45N. Retirement plan investment credit.”.

18           (2) The table of sections for part I of sub-  
 19      chapter B of chapter 68 of such Code is amended  
 20      by adding at the end the following new item:

“Sec. 6720B. Payment of qualified matching contributions to ineligible individ-  
 uals.”.

21           (3) The table of sections for chapter 77 of such  
 22      Code is amended by adding at the end the following  
 23      new item:

“Sec. 7529. Certificate of income eligibility for eligible retirement matching programs.”.

- 1       (h) **EFFECTIVE DATE.**—The amendments made by
- 2 this section shall apply to contributions made in taxable
- 3 years beginning after December 31, 2007.

